IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 1204 OF 1999

1. Sou. Seema Bhagwan Tike
Age 31 Years, Education M.Sc.
(Chemistry.

2. Ramdas More
Age 63 years, both at present
residing at Vijay Raj Bunglow
Shivaji Nagar, Sahakar Colony,
Nr. Vijay Mamta Theater,
Nashik-6. ...Petitioners.

V/s

1. Bhagwan Krishna Tike
Machinical Engineer,
Working as Manager,
Lock Division, Design Department,
Godrej Company,
Vikhroli, Mumbai - 400 083.

2. State of Maharashtra ...Respondents.

Mr. P.D. Dalvi for the petitioner.

Mr. S.S. Tatkare, APP for the State.

CORAM: V.M. KANADE, J.

DATE: 12th January, 2006

ORAL JUDGMENT:

1. Heard the learned Counsel for the petitioners. None appears for respondent No.1, though he is duly served.

2. Petitioner No.1 is the wife of respondent No.1. Petitioner No.2 is the father of petitioner No.1. and

father-in-law of respondent No.1. There was a matrimonial dispute between the petitioner No.1 and respondent No.1 and during the pendency of this dispute, a private complaint was filed by respondent No.1. in the 22nd Metropolitan Magistrate Court at Andheri, Mumbai, alleging that the petitioners herein had assaulted him and had, therefore, committed an offence punishable under sections 323, 504, 506(ii) 114 of the Indian Penal Code. It is alleged that as a result of the said assault, he was injured and had to be treated at Rajawadi Municipal Hospital.

3. The learned Counsel appearing on behalf of the petitioners, on the other hand, submitted that this complaint was filed maliciously in order to harass the petitioners who were residing at Nashik and as a counter blast Petitioner No.1 has also filed Criminal Complaint against respondent No.1 at Nashik. It appears that during the pendency of this application, the Civil Court has granted decree of divorce to the parties and the petitioner No.1 herein has filed First Appeal in this court which is pending. The learned Counsel for the petitioners has taken me though the various complaints filed by the petitioner No.1 against the respondent No.1 at Nashik.

4. After having perused the complaints and considering the facts and circumstances of the case, It is apparent that this complaint has been filed only to harass the petitioners. Though the respondent No.1 is served, he has not bothered to appear in this Court and has not filed his reply. Thus, the averments made in this application are not controverted. In these facts and circumstances, in my view, this is a fit case for quashing the process which is issued by the 22nd Metropolitan Magistrate Court, Andheri at Mumbai.

5. Application is accordingly allowed. Process is quashed. Application is made absolute in terms of prayer clause (b).

V.M. KANADE, J.